



General Assembly

Substitute Bill No. 5100

January Session, 2003

AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) As used in sections 1 to 9,
2 inclusive, of this act, unless the context otherwise requires:

3 (1) "Adequate supply" means an amount of marijuana jointly
4 possessed by a qualifying patient and the qualifying patient's primary
5 caregiver that is not more than is reasonably necessary to assure the
6 uninterrupted availability of marijuana for the purpose of alleviating
7 the symptoms or effects of the qualifying patient's debilitating medical
8 condition, but shall not exceed three mature marijuana plants, four
9 immature marijuana plants and one ounce of usable marijuana per
10 each mature plant;

11 (2) "Debilitating medical condition" means (A) cancer, glaucoma,
12 positive status for human immunodeficiency virus or acquired
13 immune deficiency syndrome, or the treatment of any such conditions,
14 including, but not limited to, chemotherapy, (B) a chronic or
15 debilitating disease or medical condition, or the treatment thereof, that
16 produces one or more of the following: (i) Cachexia or wasting
17 syndrome; (ii) severe pain; (iii) severe nausea; (iv) seizures, including,
18 but not limited to, those characteristic of epilepsy; or (v) severe and
19 persistent muscle spasms, including, but not limited to, those
20 characteristic of multiple sclerosis or Crohn's disease, or (C) any other

21 medical condition approved by the Department of Public Health,
22 pursuant to regulations that the Commissioner of Public Health may
23 adopt, in accordance with chapter 54 of the general statutes, in
24 response to a request from a physician or potentially qualifying
25 patient;

26 (3) "Marijuana" has the same meaning as provided in section 21a-
27 240 of the general statutes;

28 (4) "Medical use" means the acquisition and distribution, possession,
29 cultivation, use or transportation of marijuana or paraphernalia
30 relating to marijuana to alleviate the symptoms or effects of a
31 qualifying patient's symptoms, but does not include any such use of
32 marijuana by any person other than the qualifying patient. For the
33 purposes of this subdivision, "acquisition and distribution" means the
34 transfer of marijuana and paraphernalia relating to marijuana from the
35 primary caregiver to the qualifying patient;

36 (5) "Physician" means a person who is licensed under the provisions
37 of chapter 370 of the general statutes and authorized by subsection (a)
38 of section 21a-246 of the general statutes, as amended by this act, to
39 possess and supply marijuana for medical use, but does not include a
40 physician assistant, as defined in section 20-12a of the general statutes;

41 (6) "Primary caregiver" means a person, other than the qualifying
42 patient and the qualifying patient's physician, who is eighteen years of
43 age or older and has agreed to undertake responsibility for managing
44 the well-being of the qualifying patient with respect to the medical use
45 of marijuana, provided, in the case of a minor or an adult qualifying
46 patient lacking legal capacity, such person shall be a parent, guardian
47 or person having legal custody of such minor or adult qualifying
48 patient;

49 (7) "Qualifying patient" means a person who has been diagnosed by
50 a physician as having a debilitating medical condition;

51 (8) "Usable marijuana" means the dried leaves and flowers of the

52 marijuana plant, and any mixtures or preparations thereof, that are
53 appropriate for the medical use of marijuana, but does not include the
54 seeds, stalks and roots of the plant; and

55 (9) "Written certification" means a statement signed by the
56 qualifying patient's physician stating that, in the physician's
57 professional opinion, the qualifying patient has a debilitating medical
58 condition and the potential benefits of the medical use of marijuana
59 would likely outweigh the health risks of such use to the qualifying
60 patient.

61 Sec. 2. (NEW) (*Effective October 1, 2003*) (a) The medical use of
62 marijuana by a qualifying patient who is eighteen years of age or older
63 is permitted if:

64 (1) The qualifying patient has been diagnosed by a physician as
65 having a debilitating medical condition;

66 (2) The qualifying patient's physician has issued a written
67 certification to the qualifying patient for the medical use of marijuana
68 after the physician has prescribed, or determined it is not in the best
69 interest of the patient to prescribe, prescription drugs to address the
70 symptoms for which the certification is being issued;

71 (3) The amount of marijuana possessed by the qualifying patient
72 and the primary caregiver for medical use does not exceed an adequate
73 supply; and

74 (4) The cultivation of such marijuana occurs in a secure indoor
75 facility.

76 (b) The medical use of marijuana by a qualifying patient who is
77 under eighteen years of age is permitted if:

78 (1) The conditions set forth in subdivisions (1) to (4), inclusive, of
79 subsection (a) of this section are satisfied;

80 (2) The qualifying patient's physician has explained the potential

81 risks and benefits of the medical use of marijuana to the qualifying
82 patient and to a parent, guardian or person having legal custody of the
83 qualifying patient; and

84 (3) A parent, guardian or person having legal custody of the
85 qualifying patient agrees in writing to (A) allow the medical use of
86 marijuana by the qualifying patient, (B) serve as the qualifying
87 patient's primary caregiver, and (C) control (i) the transfer of the
88 marijuana to the qualifying patient, and (ii) the dosage and the
89 frequency of the medical use of marijuana by the qualifying patient.

90 (c) Subsections (a) and (b) of this section do not apply to:

91 (1) Any medical use of marijuana that endangers the health or well-
92 being of another person; and

93 (2) The medical use of marijuana (A) in a motor bus or a school bus,
94 as defined respectively in section 14-1 of the general statutes, or in any
95 moving vehicle, (B) in the workplace, (C) on any school grounds, (D) at
96 any public park, public beach, public recreation center or youth center
97 or any other place open to the public, or (E) in the presence of a person
98 under the age of eighteen.

99 (d) A qualifying patient shall have one primary caregiver at any
100 time. A primary caregiver may not be responsible for the care of more
101 than one qualifying patient at any time. The medical use of marijuana
102 by a primary caregiver who is registered in accordance with subsection
103 (b) of section 3 of this act is permitted on behalf of a qualifying patient,
104 provided the amount of such marijuana shall not exceed an adequate
105 supply.

106 (e) Any written certification for the medical use of marijuana issued
107 by a physician under this section shall be valid for a period not to
108 exceed one year from the date such written certification is signed by
109 the physician.

110 Sec. 3. (NEW) (*Effective October 1, 2003*) (a) Any physician who

111 issues a written certification for the medical use of marijuana shall
112 register with the Department of Public Safety the name, address and
113 patient identification number, if any, of the qualifying patient who is
114 issued such written certification and shall provide such other
115 identifying information concerning the qualifying patient as may be
116 required by the department.

117 (b) Each qualifying patient who is issued a written certification for
118 the medical use of marijuana, and the primary caregiver of such
119 qualifying patient, shall register with the Department of Public Safety.
120 Such registration shall be effective until the expiration of the written
121 certification issued by the physician. The qualifying patient and the
122 primary caregiver shall provide sufficient identifying information, as
123 determined by the department, to establish the personal identity of the
124 qualifying patient and the primary caregiver. The qualifying patient or
125 the primary caregiver shall report any change in such information to
126 the department not later than five business days after such change. The
127 department shall issue a registration certificate to the qualifying
128 patient and may charge a reasonable fee, not to exceed twenty-five
129 dollars, for a registration under this subsection.

130 (c) Upon the request of a law enforcement agency, the Department
131 of Public Safety shall verify whether a qualifying patient or a primary
132 caregiver has registered with the department in accordance with
133 subsection (b) of this section and may provide reasonable access to
134 registry information obtained under this section for law enforcement
135 purposes. Except as provided in this subsection, information obtained
136 under this section shall be confidential and shall not be subject to
137 disclosure under the Freedom of Information Act, as defined in section
138 1-200 of the general statutes.

139 Sec. 4. (NEW) (*Effective October 1, 2003*) The Commissioner of Public
140 Safety may adopt regulations, in accordance with chapter 54 of the
141 general statutes, to establish (1) a required form for written
142 certifications for the medical use of marijuana issued by physicians
143 under section 2 of this act, and (2) requirements for registrations under

144 section 3 of this act.

145 Sec. 5. (NEW) (*Effective October 1, 2003*) Nothing in sections 1 to 9,
146 inclusive, of this act shall be construed to require health insurance
147 coverage for the medical use of marijuana.

148 Sec. 6. (NEW) (*Effective October 1, 2003*) (a) A qualifying patient or a
149 primary caregiver may assert the medical use of marijuana as an
150 affirmative defense to any prosecution involving marijuana, or
151 paraphernalia relating to marijuana, under chapter 420b of the general
152 statutes, provided such qualifying patient or such primary caregiver
153 has strictly complied with the requirements of sections 1 to 9,
154 inclusive, of this act.

155 (b) No person shall be subject to arrest or prosecution solely for
156 being in the presence or vicinity of the medical use of marijuana as
157 permitted under sections 1 to 9, inclusive, of this act.

158 Sec. 7. (NEW) (*Effective October 1, 2003*) A physician shall not be
159 subject to arrest or prosecution, subject to any action under section 20-
160 13c of the general statutes, penalized in any manner or denied any
161 right or privilege for providing a written certification for the medical
162 use of marijuana if:

163 (1) The physician has diagnosed the qualifying patient as having a
164 debilitating medical condition;

165 (2) The physician has explained the potential risks and benefits of
166 the medical use of marijuana to the qualifying patient and, if the
167 qualifying patient is under eighteen years of age, to a parent, guardian
168 or person having legal custody of the qualifying patient;

169 (3) The written certification issued by the physician is based upon
170 the physician's professional opinion after having completed a full
171 assessment of the qualifying patient's medical history and current
172 medical condition made in the course of a bona fide physician-patient
173 relationship; and

174 (4) The physician has complied with the registration requirements
175 of subsection (a) of section 3 of this act.

176 Sec. 8. (NEW) (*Effective October 1, 2003*) Any marijuana,
177 paraphernalia relating to marijuana, or other property seized by law
178 enforcement officials from a qualifying patient or a primary caregiver
179 in connection with a claimed medical use of marijuana under sections
180 1 to 9, inclusive, of this act shall be returned to the qualifying patient or
181 the primary caregiver immediately upon the determination by a court
182 that the qualifying patient or the primary caregiver is entitled to the
183 medical use of marijuana under sections 1 to 9, inclusive, of this act, as
184 evidenced by a decision not to prosecute, a dismissal of charges or an
185 acquittal. Law enforcement officials seizing live marijuana plants as
186 evidence shall not be responsible for the care and maintenance of such
187 plants. This section does not apply to any qualifying patient or
188 primary caregiver who fails to comply with the requirements for the
189 medical use of marijuana under sections 1 to 9, inclusive, of this act.

190 Sec. 9. (NEW) (*Effective October 1, 2003*) (a) Any person who makes a
191 fraudulent representation to a law enforcement official of any fact or
192 circumstance relating to the medical use of marijuana in order to avoid
193 arrest or prosecution under chapter 420b of the general statutes shall
194 be guilty of a class C misdemeanor.

195 (b) Any person who makes a fraudulent representation to a law
196 enforcement official of any fact or circumstance relating to the issuance
197 of a written certification for the medical use of marijuana by a
198 physician to which section 7 of this act does not apply shall be guilty of
199 a class A misdemeanor.

200 Sec. 10. Subsection (a) of section 21a-246 of the general statutes is
201 repealed and the following is substituted in lieu thereof (*Effective*
202 *October 1, 2003*):

203 (a) No person within this state shall manufacture, wholesale,
204 repackage, supply, compound, mix, cultivate or grow, or by other
205 process produce or prepare, controlled substances without first

206 obtaining a license to do so from the Commissioner of Consumer
207 Protection and no person within this state shall operate a laboratory
208 for the purpose of research or analysis using controlled substances
209 without first obtaining a license to do so from the Commissioner of
210 Consumer Protection, except that such activities by pharmacists or
211 pharmacies in the filling and dispensing of prescriptions, or activities
212 incident thereto, or the dispensing or administering of controlled
213 substances by dentists, podiatrists, physicians [,] or veterinarians, or
214 other persons acting under their supervision, in the treatment of
215 patients shall not be subject to the provisions of this section, and
216 provided laboratories for instruction in dentistry, medicine, nursing,
217 pharmacy, pharmacology and pharmacognosy in institutions duly
218 licensed for such purposes in this state shall not be subject to the
219 provisions of this section except with respect to narcotic drugs and
220 schedule I and II controlled substances. Upon application of any
221 physician licensed pursuant to chapter 370, the Commissioner of
222 Consumer Protection shall, without unnecessary delay, license such
223 physician to possess and supply marijuana for [the treatment of
224 glaucoma or the side effects of chemotherapy] medical use pursuant to
225 sections 1 to 9, inclusive, of this act. No person [without] outside this
226 state shall sell or supply controlled substances within [the] this state
227 without first obtaining a license to do so from the Commissioner of
228 Consumer Protection, provided no such license shall be required of a
229 manufacturer whose principal place of business is located outside [the]
230 this state and who is registered with the federal Drug Enforcement
231 Agency or other federal agency, and who files a copy of such
232 registration with the appropriate licensing authority under this
233 chapter.

234 Sec. 11. Section 21a-253 of the general statutes is repealed and the
235 following is substituted in lieu thereof (*Effective October 1, 2003*):

236 Any [person] qualifying patient or primary caregiver, as defined
237 respectively in section 1 of this act, may possess or have under [his]
238 such qualifying patient's or primary caregiver's control a quantity of
239 marijuana less than or equal to that quantity supplied [to him]

240 pursuant to a prescription made in accordance with the provisions of
241 section 21a-249 by a physician licensed under the provisions of chapter
242 370 and further authorized by subsection (a) of section 21a-246, as
243 amended by this act, by the Commissioner of Consumer Protection to
244 possess and supply marijuana for [the treatment of glaucoma or the
245 side effects of chemotherapy] medical use pursuant to sections 1 to 9,
246 inclusive, of this act. The provisions of this section do not apply to the
247 possession or control of marijuana in a quantity that exceeds an
248 adequate supply, as defined in section 1 of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>

PH *Joint Favorable Subst.*